

T 1.11/3: 11/23

# Customs Bulletin

Regulations, Rulings, Decisions, and Notices  
concerning Customs and related matters



## and Decisions

of the United States Court of Customs and  
Patent Appeals and the United States  
Customs Court

Vol. 11

JUNE 8, 1977

No. 23

*This issue contains*

T.D. 77-140 through 77-146

C.D. 4695 and 4696

C.R.D. 77-4

Protest abstracts P77/61 through P77/70

Reap. abstracts R77/31 through R77/36

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DEPARTMENT OF THE TREASURY  
U.S. Customs Service

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# U.S. Customs Service

## *Treasury Decisions*

### NOTICE

No decision will appear as T.D. 77-139.

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(T.D. 77-140)

#### *Manmade Fiber Textile Products—Restriction on Entry*

Restriction on entry of manmade fiber textile products manufactured or produced in Mexico

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C., May 24, 1977.*

There is published below directive of April 22, 1977, received by the Commissioner of Customs from the Acting Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of certain manmade fiber textile products manufactured or produced in Mexico.

This directive was published in the FEDERAL REGISTER on April 27, 1977 (42 FR 21506), by the Committee.

(QUO-2-1)

JOHN B. O'LOUGHLIN,  
*Director,*  
*Duty Assessment Division.*

## CUSTOMS

UNITED STATES DEPARTMENT OF COMMERCE  
The Assistant Secretary for Domestic  
and International Business  
Washington, D.C. 20230

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

April 22, 1977.

COMMISSIONER OF CUSTOMS  
Department of the Treasury  
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 12, 1975, as amended, between the Governments of the United States and Mexico, in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on May 1, 1977 and for the twelve-month period extending through April 30, 1978, entry into the United States for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Categories 219, 224, 225, 229, 235, and 238, in excess of the following levels of restraint:

<i>Category</i>	<i>Twelve-Month Level of Restraint</i>
219	564,597 dozen
224	2,555,897 pounds
225	2,119,574 dozen
229	169,127 dozen
235	372,097 dozen
238	930,260 dozen

In carrying out this directive, entries of man-made fiber textile products in Categories 219, 224, 225, 229, 235 and 238, produced or manufactured in Mexico and exported to the United States prior to May 1, 1977, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period May 1, 1976 through April 30, 1977. In the event that the levels of restraint established for that twelve-month period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of May 12, 1975, as amended, between the Governments of the United States and Mexico which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the *FEDERAL REGISTER* on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton, wool and man-made fiber textiles from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *FEDERAL REGISTER*.

Sincerely,

ROBERT E. SHEPHERD  
*Acting Chairman, Committee for the  
Implementation of Textile Agreements,  
and Acting Deputy Assistant Secretary  
for Resources and Trade Assistance*

## CUSTOMS

(T.D. 77-141)

*Contto Textile Products—Restriction on Entry*

Restriction on entry of cotton textile products manufactured or  
produced in Poland

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C., May 24, 1977.*

There is published below directive of May 9, 1977, received by the Commissioner of Customs from the Acting Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in category 62 manufactured or produced in Poland. This directive amends, but does not cancel, that Committee's directive of December 29, 1976 (T.D. 77-40).

This directive was published in the FEDERAL REGISTER on May 11, 1977 (42 FR 23870), by the Committee.

(QUO-2-1)

JOHN B. O'LOUGHLIN,  
*Director,*  
*Duty Assessment Division.*

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UNITED STATES DEPARTMENT OF COMMERCE  
The Assistant Secretary for Domestic  
and International Business  
*Washington, D.C. 20230*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

*May 9, 1977.*

COMMISSIONER OF CUSTOMS  
*Department of the Treasury*  
*Washington, D.C. 20229*

DEAR MR. COMMISSIONER:

This directive amends, but does not cancel, the directive issued to you on December 29, 1976 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in Poland.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973 pursuant to the Bilateral Cotton Textile Agreement of November 6, 1975, be-

tween the Governments of the United States and the Polish People's Republic, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective May 11, 1977 and for the twelve month period which began on January 1, 1977 and extends through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 62 in excess of 476,087 pounds.

The actions taken with respect to the Government of Poland and with respect to imports of cotton textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD  
*Acting Chairman, Committee for the  
Implementation of Textile Agreements,  
and Acting Deputy Assistant Secretary  
for Resources and Trade Assistance*

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(T.D. 77-142)

*Bonds*

Approval and discontinuance of bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington; D.C., May 20, 1977.*

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parenthesis immediately following which has been discontinued. If the previous bond was in the name

of a different company or if the surety was different, the information is shown in a footnote at the end of list.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
AMF Tuboscope, Inc., P.O. Box 808, Houston, TX; Federal Ins. Co.	Sept. 23, 1976	Nov. 24, 1976	Houston, TX; \$10,000
American Motors Corp., Automotive Division, Kenosha, WI; Federal Ins. Co. D 12/1/76	Dec. 1, 1960	Dec. 16, 1960	Milwaukee, WI; \$10,000
American Motors Corp, A MD Corp. with principal office at American Center, 2777 Franklin Rd., Southfield, MI; American Casualty Co. of Reading, PA, A PA Corp.	Dec. 1, 1976	Dec. 8, 1976	Detroit, MI; \$10,000
Amoco Chemicals Corp., 200 East Randolph Dr., Chicago, IL; Seaboard Surety Co.	Nov. 24, 1976	Dec. 10, 1976	New Orleans, LA; \$10,000
Bakke Steamship Corp., 650 California St., San Francisco, CA; Washington International Ins. Co. (PB 8/6/72) D 8/9/76 <sup>1</sup>	Aug. 6, 1976	Aug. 26, 1976	San Francisco, CA; \$10,000
C T M T Inc. c/o Trailer Marine Transport Corp., Box 3921, San Juan, PR; Safeco Ins. Co. of America.	May 13, 1976	June 9, 1976	San Juan, PR; \$50,000
East Coast Steamship Agency, Inc., 409 Tower Building, Baltimore, MD; Peerless Ins. Co.	Nov. 15, 1976	Nov. 24, 1976	Baltimore, MD; \$10,000
General Gases & Supplies Corp., G.P.O. Box 3868, San Juan, PR; Seaboard Surety Co.	Oct. 26, 1976	Oct. 28, 1976	San Juan, PR; \$10,000
Gillespie & Co. of New York Inc., 2 Broadway, New York, NY; Ins. Co. of North America D 1/7/77	Oct. 31, 1963	Nov. 8, 1963	New York Seaport; \$10,000
Hooker Chemicals & Plastics Corp., 345 Third St., Niagara Falls, NY; American Motorists Ins. Co.	Dec. 9, 1976	Dec. 9, 1976	New York Seaport; \$10,000
Fred Imbert, Inc., Fernandez Juncos Ave., Exide Bldg., 2nd Floor, San Juan, PR; Peerless Ins. Co. (PB 11/12/71) D 10/14/76 <sup>2</sup>	Oct. 15, 1976	Oct. 15, 1976	San Juan, PR; \$10,000
Interisland Intermodal Lines, Inc., c/o Trailer Marine Transport Corp., P.O. Box 3921, San Juan, PR; The American Ins. Co.	Aug. 6, 1976	Nov. 8, 1976	San Juan, PR; \$10,000
Barbara E. Lawrence, Jackman, ME; Maine Bonding and Casualty Co. D 3/1/77	Oct. 20, 1971	Oct. 26, 1971	Portland, ME; \$10,000
Puerto Rican Cement Co., Inc., Twelfth Floor, Chase Manhattan Building, Hato Rey, PR; Peerless Ins. Co. (PB 7/5/66) D 9/27/76 <sup>3</sup>	Sept. 27, 1976	Sept. 28, 1976	San Juan, PR; \$10,000
River Development Corp., P.O. Box 7390, Savannah, GA; Hartford Accident & Indemnity Co. D 2/28/77	June 2, 1976	June 18, 1976	Savannah, GA; \$10,000

See footnotes at end of table.



Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Jose M. Rodriguez, 8-37 Mallorca Dev., Guaynabo, PR; Puerto Rican American Ins. Co.	Nov. 30, 1976	Dec. 3, 1976	San Juan, PR; \$10,000
Sea Containers Atlantic, Ltd. Argus Bldg., Wesley St., Hamilton, Bermuda; Ins. Co. of North America	Aug. 26, 1976	Nov. 2, 1976	San Francisco, CA; \$10,000
Stanton Atkin Corporation, d/b/a Intermodal Container Agencies, 141 Milk St., Boston, MA; Peerless Ins. Co. D 3/18/77	Mar. 18, 1975	Mar. 19, 1975	Boston, MA; \$10,000
Trailer Marine Transport Corp., Box 3921, San Juan, PR; The American Ins. Co.	Sept. 6, 1976	Nov. 8, 1976	San Juan, PR; \$10,000

<sup>1</sup> Surety is Peerless Ins. Co.

<sup>2</sup> Surety is Ins. Co. of North America

<sup>3</sup> Surety is Seaboard Surety Co.

(BON-3-10)

LEONARD LEHMAN,  
*Assistant Commissioner,  
Regulations and Rulings.*

(T.D. 77-143)

### *Bonds*

Approval and discontinuance of Carrier bonds, Customs Form 3587

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C., May 20, 1977.*

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of list.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
The Adley Corp., 10960 Roe Ave., Shawnee Mission, KS, motor carrier, Federal Ins. Co. (PB 3/22/73) D 11/22/76 <sup>1</sup>	Oct. 27 1976	Nov. 22, 1976	Baltimore, MD; \$50,000
Air Wisconsin, Inc., Outagamie County Airport, Appleton, WI; air carrier, Fidelity & Deposit Co. of MD	Nov. 19, 1976	Dec. 7, 1976	Chicago, IL; \$50,000
Bradley's Express, Inc., 2985 Berlin Turnpike, Newington, CT., motor carrier, American Motorists Ins. Co.	Nov. 22, 1976	Nov. 22, 1976	New York Seaport; \$25,000
Central Truck Lines, Inc., 3825 Henderson Blvd., Suite 600, P.O. Box 18464, Tampa, FL; motor carrier, Protective Ins. Co. (An IN Corp.) (PB 6/13/74) D 1/1/77 <sup>2</sup>	Jan. 1, 1977	Nov. 30, 1976	Tampa, FL; \$25,000
Chicago & Eastern Illinois Railroad Co., 72 W. Adams St., Chicago, IL; rail carrier, Safeco Ins. Co. of America. D 12/22/76	Apr. 3, 1973	Mar. 27, 1973	Chicago, IL; \$50,000
The Cleveland, Columbus & Cincinnati Highway, Inc., 201 Stouffer Building, 1375 Euclid Ave., Cleveland, OH; motor carrier, Protective Ins. Co. (PB 9/12/73) D 12/2/76 <sup>3</sup>	Oct. 30, 1976	Dec. 2, 1976	Cleveland, OH; \$50,000
Coastal, Inc., 251 Corporation Way, Medford, MA; motor carrier, Nationwide Mutual Ins. Co.	Oct. 8, 1976	Oct. 8, 1976	Boston, MA; \$25,000
Country Wide Truck Service, Inc., 1110 S. Reservoir St., Pomona, CA; motor carrier, Ins. Co. of North America. (PB 11/13/74) D 12/2/76 <sup>4</sup>	Aug. 31, 1976	Dec. 3, 1976	Los Angeles, CA; \$50,000
Crewe Transfer, Inc., 2402 Decatur St., Richmond, VA; motor carrier, The Ohio Casualty Ins. Co. (PB 10/4/73) D 11/4/76 <sup>5</sup>	Oct. 27, 1976	Nov. 4, 1976	Norfolk, VA; \$25,000
Deaton, Inc., P.O. Box 938, Birmingham, AL; motor carrier, Ins. Co. of North America. (PB 9/13/68) D 12/17/76 <sup>6</sup>	Dec. 3, 1976	Dec. 17, 1976	New Orleans, LA; \$25,000
Detroit, Toledo & Ironton RR Co., One Parklane Blvd., Dearborn, MI; rail carrier, Reliance Ins. Co. (PB 9/17/42) D 12/1/76 <sup>7</sup>	Dec. 1, 1976	Dec. 1, 1976	Detroit, MI; \$100,000
ET & WNC Transportation Co., Johnson City, TN; motor carrier, Ins. Co. of North America	Dec. 9, 1976	Dec. 9, 1976	Baltimore, MD; \$25,000
Four Seasons Cooperative, Inc., Southern Terminal, 4460 East 10th Court, Hialeah, FL; motor carrier, Peerless Ins. Co.	Nov. 1, 1976	Nov. 19, 1976	Miami, FL; \$25,000
Getter Trucking, Inc., Box 368, Cut Bank, MT; motor carrier, U.S. Fidelity & Guaranty Co. D 12/7/76	Sept. 8, 1975	Sept. 8, 1975	Great Falls, MT; \$25,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Georgia-Carolina Motor Lines, 520¼ Gervais St., Columbia, SC; motor carrier, Reliance Ins. Co. D 12/8/76	Apr. 30, 1964	Apr. 30, 1964	Charleston, SC; \$10,000
Guignard Freight Lines, Inc., Highway 21 N.P.O. Box 26067, Charlotte, NC; motor carrier, Fireman's Fund Ins. Co. (PB 11/11/75) D 11/18/76 *	Nov. 11, 1976	Nov. 18, 1976	Wilmington, NC; \$50,000
Hartman Transportation Co., 903 Mass. Ave., Roxbury, MA; motor carrier, Sentry Ins. Mutual Co. D 12/27/76	June 15, 1973	June 15, 1973	Boston, MA; \$25,000
Hemingway Transport, Inc., 438 Dartmouth St., New Bedford, MA; motor carrier, Fidelity & Deposit Co. of MD (PB 10/17/67) D 12/28/76 *	Oct. 17, 1976	Dec. 28, 1976	Boston, MA; \$50,000
I&S—McDaniel, Inc., P.O. Box 728, Vincennes, IN; motor carrier, U.S. Fidelity & Guaranty Co. D 12/2/76	Oct. 7, 1975	Oct. 29, 1975	Cleveland, OH; \$50,000
Everett E. Marshall, Jr., Pearl St., Newfield, NJ; motor carrier, The Aetna Casualty & Surety Co. D 11/17/76	Jan. 24, 1973	Mar. 12, 1973	Philadelphia, PA; \$50,000
Midwest Transportation Co., 2802 Avenue B, Council Bluffs, IA; motor carrier, Hartford Accident & Indemnity Co. (PB 7/19/72) D 12/7/76	Dec. 1, 1976	Dec. 7, 1976	Chicago, IL; \$50,000
National Van Lines, Inc., 2800 Roosevelt Rd., Broadview, IL; motor carrier, Transport Indemnity Co.	Nov. 22, 1976	Nov. 26, 1976	Chicago, IL; \$50,000
The O. K. Trucking Co. 3000 Crescentville Road, East, Cincinnati, OH; motor carrier, Ohio Farmers Ins. Co. (PB 11/12/75) D 12/9/76 10	Nov. 12, 1976	Dec. 9, 1976	Cleveland, OH; \$25,000
Penn Pacific, Inc., 20815 Currier Rd., Walnut, CA; motor carrier, Pacific Employers Ins. Co. (PB 2/16/74) D 12/2/76 11	Nov. 9, 1976	Dec. 3, 1976	Los Angeles, CA; \$50,000
Pitt County Transportation Co., P.O. Box 207, Farmville, NC; motor carrier, Safeco Ins. Co. of America D 10/19/76	Feb. 8, 1974	Mar. 4, 1974	Wilmington, NC; \$25,000
Puget Sound Tug & Barge Co., Alaska Hydrotrain, North Star Forwarding Co., Caribe Hydro-Trailer, Inc., Puerto Rico Marine Lines, Inc., P.O. Box 3783, Seattle, WA; water carrier, Peerless Ins. Co. (PB 11/23/71) D 12/5/76 12	Dec. 6, 1976	Dec. 6, 1976	Seattle, WA; \$50,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Reisch Trucking & Transportation Co., Inc., 819 Union Ave., Pennsauken, NJ; motor carrier, Hanover Ins. Co. D 11/15/76	Jan. 12, 1976	Feb. 4, 1976	Philadelphia, PA; \$50,000
Ringsby Truck Lines, Inc., a NB Corp., and/or d/b/a Overoad West, Ltd., a CO Corp., 5773 South Prince St., Littleton, CO; motor carrier, Liberty Ins. Co., A MA Corp. (PB 3/13/74) D 8/10/76 <sup>13</sup>	Aug. 10, 1976	Aug. 18, 1976	El Paso, TX; \$50,000
St. Lawrence Freightways, Inc., 650 Cooper St., Watertown, NY; motor carrier, The Aetna Casualty & Surety Co. (PB 11/24/71) D 12/22/76 <sup>14</sup>	Dec. 10, 1976	Dec. 22, 1976	Ogdensburg, NY; \$25,000
H. C. Schmieding Product Co., Inc., P.O. Box 369, Springdale, AR; motor carrier, Fidelity & Deposit Co. of MD. (PB 11/2/59) D 11/16/76 <sup>14</sup>	Nov. 2, 1976	Nov. 16, 1976	New Orleans, LA; \$25,000
Spokane International Railroad Co., Spokane, WA; rail carrier, Fidelity & Deposit Co. of MD. D 1/3/77	Nov. 12, 1941	Dec. 4, 1941	Great Falls, MT; \$50,000
Texas-Continental Express, Inc., 2603 W. Euless Blvd., Euless, TX; motor carrier, U.S. Fidelity & Guaranty Co. (PB 6/6/75) D 12/8/76	Nov. 19, 1976	Dec. 8, 1976	Houston, TX; \$25,000
The Texas and Pacific Railway Co. & Texas Pacific-Missouri Pacific Terminal Railroad Co., 210 North 13th St., St. Louis, MO; rail carrier, General Ins. Co. of America D 11/19/76	Oct. 1, 1972	Oct. 2, 1972	New Orleans, LA; \$100,000
Union Pacific Railroad Co., Spokane International Railroad Co., 1416 Dodge St., Omaha, NB; rail carrier, Continental Casualty Co. (PB 9/12/41) D 1/1/77	Nov. 29, 1976	Jan. 1, 1977	Chicago, IL; \$100,000
Vancouver Ocean Terminals Ltd., Foot of Clark Drive, Vancouver 6, B.C., Canada, motor carrier, General Ins. Co. of America D 12/1/76	July 19, 1972	July 24, 1972	Seattle, WA; \$25,000
West Coast Warehouse Corp., P.O. Box 258, Long Beach, CA; motor carrier, Fireman's Fund Ins. Co. (PB 3/21/75) D 12/2/76	Nov. 15, 1976	Dec. 3, 1976	Los Angeles, CA; \$50,000
Yellow Forwarding Co., 10990 Roe Ave., Shawnee Mission, KS; motor carrier, North River Ins. Co. (PB 1/24/73) D 11/1/76 <sup>14</sup>	Oct. 28, 1976	Nov. 1, 1976	Chicago, IL; \$50,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Yellow Freight System, Inc., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, KS; motor carrier, North River Ins. Co. (PB 1/2/69) D 11/1/76 <sup>17</sup>	Nov. 1, 1976	Nov. 1, 1976	St. Louis, MO; \$25,000

<sup>1</sup> Surety is Seaboard Surety Co.

<sup>2</sup> Surety is Seaboard Surety Co.

<sup>3</sup> Surety is Seaboard Surety Co.

<sup>4</sup> Surety is Pacific Employers Ins. Co.

<sup>5</sup> Surety is Maryland Ins. Co.

<sup>6</sup> Surety is Maryland Casualty Co.

<sup>7</sup> Surety is National Surety Corp.

<sup>8</sup> Surety is Maryland Casualty Co.

<sup>9</sup> Surety is Seaboard Surety Co.

<sup>10</sup> Surety is Royal Globe Ins. Co.

<sup>11</sup> Surety is United States Fidelity & Guaranty Co.

<sup>12</sup> Principal is Puget Sound Tug & Barge Co., together with its division known as Alaska Hydrotrain, and Puget Sound Tug and Barge Co.'s wholly owned subsidiaries North Star Forwarding Co., Caribe Hydro-Trailer, Inc., & Puerto Rico Marine Lines, Inc. Surety is U.S. Fidelity & Guaranty Co.

<sup>13</sup> Principal is Ringsby Truck Lines, Inc. d/b/a Ringsby United, Surety is Transport Indemnity Co.

<sup>14</sup> Surety is American Empire Ins. Co.

<sup>15</sup> Surety is Maryland Casualty Co.

<sup>16</sup> Surety is Seaboard Surety Co.

<sup>17</sup> Surety is Seaboard Surety Co.

(BON-3-03)

LEONARD LEHMAN,  
*Assistant Commissioner,  
Regulations and Rulings.*

(T.D. 77-144)

### *Foreign Currencies—Certification of Rates*

Rates of exchange certified to the Secretary of the Treasury by the  
Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C., May 18, 1977.*

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 77-106 for the following country. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs

purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Finland markka:

May 9, 1977.....	\$0. 2450
May 10, 1977.....	0. 2453
May 11, 1977.....	0. 2448
May 12, 1977.....	0. 2448
May 13, 1977.....	0. 2452

(LIQ-3)

JOHN B. O'LOUGHLIN,  
Director,  
Duty Assessment Division.

(T.D. 77-145)

*Foreign currencies—Daily rates for countries not on quarterly list*

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
Washington, D.C., May 18, 1977.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C; Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:

May 9, 1977.....	\$0. 2145
May 10, 1977.....	0. 2142
May 11, 1977.....	0. 2140
May 12, 1977.....	0. 2137
May 13, 1977.....	0. 2135

Iran rial:

May 9, 1977.....	\$0. 0141
May 10, 1977.....	0. 0141
May 11, 1977.....	0. 0141
May 12, 1977.....	0. 0140
May 13, 1977.....	0. 0141

## Philippines peso:

May 9, 1977	-----	\$0. 1350
May 10, 1977	-----	0. 1350
May 11, 1977	-----	0. 1350
May 12, 1977	-----	0. 1350
May 13, 1977	-----	0. 1340

## Singapore dollar:

May 9, 1977	-----	\$0. 4059
May 10, 1977	-----	0. 4059
May 11, 1977	-----	0. 4059
May 12, 1977	-----	0. 4060
May 13, 1977	-----	0. 4057

## Thailand baht (tical):

May 9-May 13, 1977	-----	\$0. 0490
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(LIQ-3)

JOHN B. O'LOUGHLIN,  
*Director,*  
*Duty Assessment Division.*

(T.D. 77-146)

*Synopses of drawback decision*

DEPARTMENT OF THE TREASURY,  
 OFFICE OF THE COMMISSIONER OF CUSTOMS,  
 Washington, D.C., May 19, 1977.

The following are synopses of drawback rates and amendments issued October 5, 1976, to January 28, 1977, inclusive, pursuant to section 22.1 and 22.5, inclusive, Customs Regulations.

In the synopses below are listed, for each drawback rate or amendment approved under section 1313(a), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the effective dates of exportation, the Regional Commissioner who issued the rate, and the date on which it was issued.

(DRA-1-09)

LEONARD LEHMAN,  
*Assistant Commissioner,*  
*Regulations and Rulings.*

(A) Company: Ayerst Laboratories, Inc.

Articles: Phendimetrazine tartrate

Merchandise: Imported 1-ephedrine hydrochloride

Factory: Rouses Point, NY

Statement signed: January 7, 1977

Basis of claim: Used in

Effective date: January 24, 1974

Amendment issued by RC of Customs: Boston, January 17, 1977

Amends: T.D. 55411-C, as amended, to cover new process above

(B) Company: Brier Mfg. Co.

Articles: Plastic trays, cartridges, etc.

Merchandise: Imported polystyrene plastic powder

Factory: Providence, RI

Statement signed: December 28, 1976

Basis of claim: Used in

Effective date: December 2, 1976

Rate issued by RC of Customs: Boston, January 3, 1977

(C) Company: Cummins Wisconsin, Inc.

Articles: Diesel electric generator sets

Merchandise: Imported diesel internal combustion engines

Factory: New Berlin, WI

Statement signed: August 27, 1976

Basis of claim: Appearing in

Effective date: January 2, 1976

Rate issued by RC of Customs: Chicago, January 28, 1977

(D) Company: D.G. Shelter Products, Building Materials Group

Articles: Finished printed plywood panels

Merchandise: Imported hardwood plywood panels

Factories: Jacksonville, FL, and Beaverton, OR

Statement signed: October 5, 1976

Basis of Claim: Used in

Effective date: October 5, 1976

Amendment issued by RC of Customs: San Francisco, October 6, 1976

Amends: T.D. 72-98-P, as amended, to cover name change from D.G. Shelter Products Co., Hearin Div.

(E) Company: Delta Petroleum Co., Inc.

Articles: Talusia 40, 70, 70 GR, 100 GR; Atlanta Marine 30, 30 D;

Disola M 30, M, and M 40



Merchandise: Imported talusia concentrate; talu-pac 25; grafi-pac 38; atlanta marine concentrate; atlan-pac 3; atlanta marine D concentrate; alca-pac 5; disola M concentrate; and diso-pac 10

Factory: Metairie, LA

Statement signed: October 13, 1976

Basis of claim: Appearing in

Effective date: September 18, 1975

Rate issued by RC of Customs: New Orleans, January 21, 1977

(F) Company: Eddie Bauer, Inc.

Articles: Comforters and pillows

Merchandise: Imported comforter and pillow ticks

Factories: Kent, Puyallup, Chewalah, and Seattle, WA; and Wetumpke, AL

Statement signed: November 10, 1976

Basis of claim: Used in

Effective date: May 2, 1975

Amendment issued by RC of Customs: Chicago, December 17, 1976

Amends: T.D. 77-29-C to cover new process above.

(G) Company: Engines, Inc.

Articles: Air-cooled diesel engines

Merchandise: Imported Lombardini diesel engines and gear reduction assembly

Factory: Jefferson, LA

Statement signed: September 28, 1976

Basis of claim: Used in

Effective date: July 16, 1976

Rate issued by RC of Customs: New Orleans, October 19, 1976

(H) Company: General Systems Int'l Inc.

Articles: Diskette drives

Merchandise: Imported electric motors

Factory: Anaheim, CA

Statement signed: October 28, 1976

Basis of claim: Used in

Effective date: January 29, 1975

Rate issued by RC of Customs: Los Angeles, December 14, 1976

(I) Company: Hail & Cotton, Inc.

Articles: Leaf and scrap tobaccos

Merchandise: Imported air-cured (filler-not stemmed) tobacco

Factory: Springfield, TN

Statement signed: October 27, 1976

Basis of claim: Used in

Effective date: October 29, 1976

Amendment issued by RC of Customs: Baltimore, November 3, 1976

Amends: T.D. 73-323-Y to cover new merchandise above.

(J) Company: Jackson Steel Products

Articles: Swimming pool structural parts

Merchandise: Imported steel coils

Factory: Mineola, L.I., NY

Statement signed: March 8, 1976

Basis of claim: Used in

Effective date: January 7, 1976

Rate issued by RC of Customs: Boston, November 10, 1976

(K) Company: John Tate, Inc.

Articles: Light towers, diesel generating plants, and irrigation pumps

Merchandise: Imported diesel engines

Factory: San Rafael, CA

Statement signed: October 21, 1976

Basis of claim: Appearing in

Effective date: September 30, 1976

Rate issued by RC of Customs: San Francisco, November 10, 1976

(L) Company: Kroger Co.

Articles: Sugar Twin

Merchandise: Imported sodium saccharine—calcium chloride

Factory: Cincinnati, OH

Statement signed: March 22, 1976

Basis of claim: Used in

Effective date: January 27, 1976

Rate issued by RC of Customs: Boston, December 3, 1976

(M) Company: Lone Star Mfg. Co.

Articles: Automobile air conditioners

Merchandise: Various imported air conditioning components

Factory: Ft. Worth, TX

Statement subscribed to on: September 21, 1976

Basis of claim: Used in

Effective date: October 1, 1976

Rate issued by RC of Customs: Houston, December 9, 1976

(N) Company: Napp Chemicals, Inc.

Articles: Nequinat cabosil blend

Merchandise: Imported nequinat

Factory: Lodi, NJ

Statement signed: December 1, 1976

Basis of claim: Used in

Effective date: July 15, 1970

Amendment issued by RC of Customs: Boston, December 6, 1976

Amends: T.D. 54383-E, as amended, to cover new process above

(O) Company: Panhandle Div. of Tranter, Inc.

Articles: Pressure vessel jacketed reactors

Merchandise: Imported carbon and alloy steel

Factory: Wichita Falls, TX

Statement signed: August 25, 1976

Basis of claim: Appearing in

Effective date: December 1, 1976

Rate issued by RC of Customs: Houston, October 18, 1976

(P) Company: Peer Bearing Co.

Articles: Finished ball bearings

Merchandise: Imported ball bearings, seals, and shields

Statement signed: October 8, 1976

Basis of claim: Used in

Effective date: October 7, 1976

Rate issued by RC of Customs: Chicago, November 10, 1976

(Q) Company: Pellerin Milnor Corp.

Articles: Commercial laundry extractors (washing machines)

Merchandise: Imported valves for controlling liquids or gases, (other than hand-operated, other than ballcock mechanisms)

Factory: Kenner, LA

Statement signed: October 19, 1976

Basis of claim: Used in

Effective date: December 15, 1976

Amendment issued by RC of Customs: New Orleans, October 21, 1976

Amends: T.D. 67-288-I to cover new merchandise above

(R) Company: Pettibone Corp.

Articles: Pettibone multikrane (various models)

Merchandise: Imported diesel engines

Factory: Rome, NY

Statement signed: October 16, 1975

Basis of claim: Appearing in

Effective date: November 17, 1970

Rate issued by RC of Customs: Boston, October 5, 1976

(S) Company: Newell Companies, Inc.

Articles: Picture hanger sets; screws; and wire

Merchandise: Imported galvanized wire

Factory: Ogdensburg, NY

Statement signed: August 14, 1975

Basis of claim: Used in

Effective date: April 28, 1975

Rate issued by RC of Customs: Boston, December 14, 1976

(T) Company: Precision Photoglass, Inc., Int'l

Articles: Microphotographic products

Merchandise: Imported high resolution photographic plates

Factory: Mountain View, CA

Statement signed: October 11, 1976

Basis of claim: Used in

Effective date: May 28, 1976

Rate issued by RC of Customs: San Francisco, December 27, 1976

(U) Company: Quali-Tech Products Inc.

Articles: Vitamin products

Merchandise: Imported vitamins

Factory: Chaska, MN

Statement signed: October 5, 1976

Basis of claim: Used in

Effective date: October 21, 1976

Rate issued by RC of Customs: Chicago, October 26, 1976

(V) Company: Scorpion, Inc.

Articles: Snowmobiles

Merchandise: Imported internal combustion engines

Factory: Crosby, MN

Statement signed: June 29, 1976

Basis of claim: Appearing in

Effective date: February 15, 1974, date of successorship

Amendment issued by RC of Customs: Chicago, January 20, 1977

Amends: T.D. 71-135-S, to provide for a successorship from Scorpion, Inc. to Scorpion, Inc.

(W) Company: South Coast Terminals, Inc.

Articles: Marine lubricating oils

Merchandise: Imported marine oil concentrates

Factory: Houston, TX

Statement signed: July 16, 1976

Basis of claim: Used in

Effective date: June 11, 1976

Rate issued by RC of Customs: Houston, December 1, 1976

(X) Company: Trico Products Corp.

Articles: Automatic windshield wiper systems

Merchandise: Various imported components

Factory: Buffalo, NY

Statement signed: September 27, 1976

Basis of claim: Appearing in

Effective date: July 21, 1976

Rate issued by RC of Customs: Boston, October 5, 1976

(Y) Company: Varel Mfg. Co.

Articles: Drilling bits and drill tool products

Merchandise: Imported cones; heads; blades; and other components

Factory: Dallas, TX

Statement signed: January 6, 1977

Basis of claim: Appearing in

Effective date: April 24, 1975

Rate issued by RC of Customs: Houston, January 19, 1977

(Z) Company: Wasa Steel Inc.

Articles: Stainless welding wire

Merchandise: Imported stainless wire

Factory: Clinton, CT

Statement signed: December 22, 1976

Basis of claim: Appearing in

Effective date: November 26, 1976

Rate issued by RC of Customs: Boston, January 3, 1977

# Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza  
New York, N.Y. 10007

*Chief Judge*

Edward D. Re

*Judges*

Paul P. Rao  
Morgan Ford  
Scovel Richardson  
Frederick Landis

James L. Watson  
Herbert N. Maletz  
Bernard Newman  
Nils A. Boe

*Senior Judge*

Samuel M. Rosenstein

*Clerk*

Joseph E. Lombardi

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## *Customs Decisions*

(C. D. 4695)

WACKER CHEMICAL CORPORATION *v.* UNITED STATES

*Unwrought silicon*

### UNWROUGHT SILICON—MONOCRYSTALLINE SILICON INGOTS

Hyperpure monocrystalline silicon ingots, which are centerless ground to comply with customers' diameter specifications and flatted to identify the crystal orientation, are within the purview of headnote 3(a) of part 2, schedule 6, TSUS. Accordingly, the ingots are properly dutiable under item 632.43, TSUS, as unwrought silicon, rather than under item 658.00, TSUS, the basket provision for base metal articles.

Court No. 75-7-01741

Port of New York

[Judgment for plaintiff.]

(Decided May 9, 1977)

*Murray Sklaroff, Esq.*, for the plaintiff.*Barbara Allen Babcock*, Assistant Attorney General (*John N. Politis* and *Mark K. Neville, Jr.*, trial attorneys), for the defendant.

NEWMAN, Judge: This action concerns the proper tariff classification for certain hyperpure monocrystalline silicon rods or ingots imported by plaintiff from West Germany in 1974 and entered at the port of New York.<sup>1</sup>

The merchandise was assessed with duty at the rate of 9 per centum ad valorem pursuant to the provision in item 658.00, TSUS, as modified by T.D. 68-9, for articles of base metals not provided for elsewhere in subpart G of part 3, schedule 6. Plaintiff claims that the importations are properly dutiable at the rate of 5 per centum ad valorem under the provision in item 632.43, TSUS, as modified by T.D. 68-9, for unwrought silicon, containing by weight over 99.7 percent of silicon.

For the reasons stated herein, I have concluded that plaintiff's claim should be sustained.

## STATUTES INVOLVED

Classified under:

Schedule 6, Part 3, Subpart G:

Subpart G. - Metal Products Not Specially Provided For

Subpart G headnote:

1. This subpart covers only articles of metal which are not more specifically provided for elsewhere in the tariff schedules.

\* \* \* \* \*

<sup>1</sup> The case was limited by plaintiff to specific articles designated on the invoices with the entries, as follows (R. 10-12):

Protest	Entry Number	Article Designation
1001-5-003487	K344853	AB 37856
	K111327	AB 37958, AB 37959
	K101666	AB 37856, AB 37908, AB 37978
	K106121	AB 37913, AB 37908, AB 20009
	K355669	AB 37910, AB 37229
1001-5-003489	K353216	AB 37911, AB 37164, AB 37907, AB 37912
	K340100	AB 20011, AB 37942, AB 37996
	K359453	AB 37696
	K358340	AB 37569, AB 37605

Entry K344851 in protest 1001-5-003489 was abandoned (R.11).

658.00 Articles of base metals not provided for in the foregoing provisions of this subpart, not coated or plated with precious metal-----

9% ad val.

Claimed under:

Schedule 6, Part 2, Subpart K:

Part 2 headnotes:

1. This part covers precious metals and base metals (including such metals when they are chemically pure), their alloys, and their so-called basic shapes and forms, and, in addition, covers metal waste and scrap. \* \* \*

\* \* \* \* \*

3. For the purposes of this part, unless the context requires otherwise—

(a) the term “unwrought” refers to metal, whether or not refined, in the form of ingots, blocks, lumps, billets, cakes, slabs, pigs, cathodes, anodes, briquettes, cubes, sticks, grains, sponge, pellets, shot, and similar primary forms, \* \* \*

\* \* \* \* \*

Subpart K. — Other Base Metals

Other base metals, unwrought, and waste and scrap of such metals:

Other than alloys; and waste and scrap:

\* \* \* \* \*

Silicon:

\* \* \* \* \*

632.43

Containing by weight over 99.7 percent of silicon---

5% ad val.

THE RECORD

At the trial, each party presented the testimony of one witness. Plaintiff's witness was Vern Meissner, its Vice-President of Sales and Marketing; defendant's witness was John William Burd, the Manager of Materials Technology and Development at Monsanto Company. Additionally, plaintiff introduced in evidence eleven exhibits and the official papers; defendant introduced two exhibits.

The facts are:

The importations comprise hyperpure monocrystalline silicon rods or ingots containing by weight over 99.7 percent of silicon. Hyperpure



monocrystalline silicon is a semiconductor material, and the rods are used by plaintiff's customers in making semiconductor devices for various electronic applications such as computers, watches, clocks, radios, calculators and space satellites.

The method of producing the imports is not in dispute, and may be briefly described as follows:

Metallurgical grade silicon in granular form (approximately 96 percent pure silicon) is reacted with hydrochloric acid resulting in a hyperpure form of silicon, trichlorosilane (a gas). After further purification, trichlorosilane is decomposed in a hydrogen atmosphere and deposited onto electrically heated filaments of hyperpure polycrystalline silicon known as "slim rods". This "slim rod" process produces hyperpure polycrystalline silicon rods.

The polycrystalline silicon rods, however, are unusable as semiconductor material because their crystal structure is randomly oriented and lacks the desired electrical characteristics. Consequently, the polycrystalline rods are further processed into monocrystalline rods, which possess a suitable crystal structure and electrical properties for use as a semiconductor material.

There are two methods used for converting a polycrystalline silicon rod into a monocrystalline silicon rod: the float zone method and the Czochralski method.

In the float zone process, a rod of polycrystalline silicon is suspended in a chamber, and a molten zone is induced in the silicon using radio frequency induction heating. A seeding operation is accomplished by first melting the lower portion of the polycrystalline rod by use of a radio frequency induction coil, and gradually bringing the molten zone in contact with a single crystal seed. The molten zone is then slowly moved away from the seed crystal, and the growing crystal assumes the orientation of the seed crystal so that the polycrystalline rod assumes the crystal habitat of the seed.

In the Czochralski method, polycrystalline silicon is deposited in a quartz crucible and melted down by induction or resistance heating. A small single crystal seed is then dipped into the melt and withdrawn under controlled conditions. The molten silicon adheres to the seed crystal, aligning itself with the molecular structure of the seed crystal to form a single crystal silicon rod.

To be useful as a semiconductor material, silicon must neither be too pure nor contain excessive amounts of impurities. Thus, in both the float zone and Czochralski methods, carefully measured amounts of impurities referred to as "dopants" (phosphorous or other materials) are added to the silicon for the purpose of imparting the desired "resistivity property" (R. 82) or "the electrical characteristics \* \* \* that are desired by the ultimate customer or user of the

single crystal silicon" (R. 121). This "doping" process, while causing monocrystalline silicon to be less pure than polycrystalline silicon, does not cause the former to be less pure than 99.7 percent of silicon by weight.

Since plaintiff "grows" 95 percent of its monocrystalline rods larger in diameter than is specified by its customers, the rods must be "centerless ground" by passing them along a grinding wheel while at the same time rotating the silicon rods.<sup>2</sup> Plaintiff grinds the rods to within plus or minus 25 microns of the specified diameters, inasmuch as plaintiff's customers "need those tolerances to fit these particular rods or the slices into machinery that is existing at that time in \* [their] plant[s]" (R. 92-93).

In addition to centerless grinding, plaintiff determines the crystal orientation of the monocrystalline rods by laser beam or X-ray; and as a means of coding or identifying such crystal orientation, a portion of the circumference of each rod is "flatted". Flatting identifies the crystal orientation of a particular monocrystalline ingot and "is a method of coding the wafers, in addition to providing a cleavage reference plane" (R. 127).

After centerless grinding and flatting, the monocrystalline ingots are etched to remove any damage caused by grinding.

The monocrystalline silicon rods are used by plaintiff's customers as a material for manufacturing semiconductor devices. The rods are cut into thin slices or wafers, and depending upon the particular devices to be made of the material, the slices may be polished and further processed by adding impurities into the slices by diffusion, by oxidizing the slices, and by alloying them. Also, the slices may be processed by the epitaxial deposition of silicon onto a silicon wafer. The slices are probe-tested for resistivity and scribed to separate the individual chips on the wafer. Additionally, leads may be put on the devices, and they may be encapsulated in some form.

#### OPINION

There appears to be no dispute that: 1) the imported monocrystalline silicon rods or ingots contain by weight over 99.7 percent of silicon; 2) the imports were produced from hyperpure polycrystalline silicon rods, and such rods, because of their randomly oriented crystal structure and electrical characteristics, are unusable as a semiconductor material; and 3) the imports were centerless ground and flatted. The principal dispute is one of law, involving the applicability of headnote 3(a) of part 2, schedule 6 (hereinafter headnote 3(a)) to the monocrystalline ingots.

<sup>2</sup> Article AB 20011 in entry K340100 was not centerless ground (R. 34-35).

Plaintiff contends that the merchandise is "unwrought" as defined in headnote 3(a) since "it is no more than a primary form, to wit, a source of supply of the metal silicon". Defendant, on the other hand, argues that headnote 3(a) is inapplicable inasmuch as "[i]n the manufacture of the imported merchandise, polycrystalline silicon rod, a primary form of hyperpure silicon, has been converted into monocrystalline silicon rod, which is not a primary form of hyperpure silicon". The Government further urges that "[t]he precise centerless grinding, flatting, and subsidiary operations performed on the imported merchandise are of such character as to advance the monocrystalline rod, precluding item 632.43, TSUS, treatment".

At the outset, we shall consider whether the monocrystalline structure of the rods precludes their classification as "unwrought" as that term is defined in headnote 3(a).

Headnote 3(a) enumerates various primary metallic forms which are useful only as a source of a particular metal. The record shows that hyperpure monocrystalline silicon first appears in the rod or ingot form and that the imports are used by manufacturers of semiconductor devices only as a source of the desired metal. Although the crystalline structure and electrical properties of hyperpure silicon affect its usefulness as a semiconductor material,<sup>3</sup> the crystalline structure of the silicon does not affect its primary form as a rod or ingot. Hence, in my opinion, a monocrystalline silicon rod is as much a primary form of hyperpure silicon as is a polycrystalline silicon rod, which defendant concedes falls within the purview of headnote 3(a).<sup>4</sup>

We now turn to defendant's argument that "in addition to the significant advancement marked by the growth of the monocrystalline rod, centerless grinding and flatting are also significant advancements that take the newly-created rod out of primary form status".

Contrary to defendant's contention, the record establishes that the centerless grinding and flatting operations, while performed with precision, do not significantly advance the monocrystalline rods toward their ultimate use in the production of semiconductor devices. The centerless grinding operation serves merely to fulfill the diameter

<sup>3</sup> As noted *supra*, polycrystalline silicon is not usable as a material for making semiconductors because of its randomly oriented crystalline structure.

<sup>4</sup> It appears from plaintiff's exhibit 6, a letter from the Bureau of Customs (renamed United States Customs Service) to Mr. Meissner, dated August 28, 1968, that administratively the Bureau made no distinction between silicon ingots solely on the basis of their crystalline structure, contrary to the position urged by defendant in the instant case. The Bureau's letter states:

Crystal ingots unadvanced or merely cut to facilitate transportation or to fulfill purchaser specifications are classifiable as unwrought metal. . . .

Crystal ingots which are further advanced are classifiable under item 653.00, with duty at the rate of 16 percent ad valorem. Included in this classification are crystals which have been subjected to X-ray diffraction to determine crystal orientation.

See also plaintiff's exhibit 7 (Reply to Inquiry, VAL: 4.133B).

specifications of plaintiff's customers so that the rods or slices cut from the rods will fit the semiconductor manufacturer's processing equipment (R. 92-93, 124),<sup>5</sup> while flatting serves only to identify the crystal orientation of the particular ingot for scribing and other purposes. According to defendant's witness Burd, flatting "is a method of coding the wafers, in addition to providing a cleavage reference plane" (R. 127). When Burd was questioned on cross-examination as to whether the flat would manifest itself on the final product, he reluctantly admitted that out of 400 to 500 circuits on a wafer, a mere 10 to 12 circuits might retain a portion of the flat (R. 145).

The short of the matter is that I am not persuaded that either the centerless grinding to specifications or the flatting operating precludes an "unwrought" status for the merchandise within the purview of headnote 3(a).

Finally, plaintiff has called this Court's attention to the recent decision of our Appellate Court in *United States v. Texas Instruments, Incorporated*, 64 CCPA—, CAD 1178, 545 F. 2d 739 (1976). There, the Appellate Court describes what appears to be the Czochralski method of producing monocrystalline silicon ingots, and the subsequent processing of the ingots into slices and then into transistors.

The issue in *Texas Instruments* concerned item 807.00, TSUS, which provision covers articles assembled abroad of components fabricated in the United States. The Court of Customs and Patent Appeals held that scoring and breaking a silicon slice along provided so-called "streets" to separate individual transistor areas commonly created on the slice did not constitute "further fabrication" of the transistor areas within the meaning of item 807.00(a), and consequently the imported transistors qualified for item 807.00(a) treatment.

The Government's argument in *Texas Instruments* respecting item 807.00, which the Appellate Court rejected, is somewhat analogous to its position here respecting headnote 3(a). Relative to item 807.00, defendant argued that the scoring operation performed abroad was a precise, complex machining process conducted at extremely close tolerance, which was a step in the further fabrication of the silicon transistor chips resulting in their enhancement in value or improvement in condition, thereby precluding item 807.00 treatment. As noted *supra*, in the instant case defendant urges that centerless grinding and flatting are precise and complex machining operations, which significantly advance the ingots beyond a primary form of metal within the purview of headnote 3(a).

<sup>5</sup> The Bureau's letter to Mr. Meissner (exhibit 6) states: "Crystal ingots unadvanced or merely cut to facilitate transportation or to fulfill purchaser specifications are classifiable as unwrought metal". [Emphasis added.]

Upon a careful analysis of the evidence and the arguments of counsel, I conclude that the monocrystalline silicon ingots are properly dutiable as unwrought silicon under item 632.43, TSUS.

Plaintiff's claim is sustained and judgment will be entered accordingly.

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(C.D. 4696)

WALKER ENTERPRISES, LTD. v. UNITED STATES

*Plastic visors*

MOTION TO DISMISS ACTION—LIMITATION ON PROTEST FILINGS

An action commenced by an importer on the basis of the second of two protests filed against entries of plastic visors will be dismissed on jurisdictional grounds on motion of the government made before answer where the record shows that the only effective protest filed against said entries in accordance with 19 U.S.C.A. § 1514(b)(1) which authorizes the filing of only one protest was the initial protest concerning which no judicial review was sought by the importer following administrative denial, and which could have been amended to include the additional claim under 19 U.S.C.A. § 1520 sought to be advanced by the importer by means of the second protest.

Court No. 74-11-03229

Port of Champlain-Rouses Point

[Dismissed.]

(Dated May 12, 1977)

*Barnes, Richardson & Colburn* (Joseph Schwartz of counsel) for the plaintiff.  
*Barbara Allen Babcock*, Assistant Attorney General (Steven P. Florsheim, trial attorney), for the defendant.

RICHARDSON, Judge: In this action defendant moves pursuant to Rule 4.7 for an order dismissing the action on the ground that the court lacks jurisdiction of the subject matter. Defendant contends that the two entries<sup>1</sup> involved herein, bearing numbers 73-102752 and 73-175330, were liquidated on June 29, 1973, that protest bearing number 0712-3-000427 (hereinafter referred to as the 427 protest) was filed by plaintiff against these liquidations on September 26, 1973, that the 427 protest was denied on November 30, 1973, and that this action was instituted by plaintiff on November 25, 1974, or more

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<sup>1</sup> Each entry covers a single category of merchandise, namely, plastic visors for snowmobile helmets.

than 180 days after denial of the 427 protest contrary to the requirements of 28 U.S.C.A., section 2631(a) which mandates commencement of an action in this court within 180 days of the denial of a protest.

Plaintiff opposes the motion, contending that the action was commenced within 180 days of the denial of protest bearing number 0712-4-000043 (hereinafter referred to as the 043 protest) which was filed on January 28, 1974, against the same entries, and denied on May 29, 1974. Plaintiff maintains that the 043 protest is directed against the district director's refusal to reliquidate the subject entries in accordance with 19 U.S.C.A., section 1520(c)(1), and that it is the only protest which is the subject of this action.

The official papers under entry numbered 73-102752 disclose that the visors were entered under TSUS item 774.60 at the duty rate of 8.5 *per centum ad valorem* and were classified in liquidation under item 772.30 at the duty rate of 12.5 *per centum ad valorem*. And the official papers under entry numbered 73-175330 indicate that the visors were entered and classified in liquidation under item 772.30 at the duty rate of 12.5 *per centum ad valorem*. In the 427 protest, a copy of which is annexed to the moving papers, plaintiff sought classification of the visors covered by both entries under item 774.60. The 427 protest is also referred to in an Application for Further Review contained among the official papers in entry numbered 73-102752 as follows:

"... These entries were initially protested under Protest #0712-3-001427 [sic] dated 9/26/73, denied 11/30/73. In accordance with CR 174.24(a) we request further review of this protest."

The applicable statute, 19 U.S.C.A., section 1514(b)(1), authorizes the filing of only one protest as to each entry of merchandise where, as in this case, a single category of merchandise is covered by each entry. And this statute also authorizes the amendment of a protest at the administrative level to include, among other things, a timely section 1520 claim which subsequently accrues in favor of the protestant.

Notwithstanding the statutory single protest limitation plaintiff endeavors to draw support for its filing of the 043 protest by asserting in its opposition papers that "[t]hat protest was filed against the failure to reliquidate the entries under Section 520, and was filed within 90 days after the December 26, 1973 ruling by the U.S. Customs Service which is in the Court files." However, in its complaint plaintiff alleges in paragraph 12 thereof that "[t]he error, mistake or



inadvertence was brought to the attention of the Customs Service within 90 days after the date of liquidation."

The record reveals that the only notice of error which was brought to the attention of the Customs Service within the 90-day period following liquidation of the involved entries on June 29, 1973, was the 427 protest itself which was filed on September 26, 1973. And this protest is not the notice of error contemplated by section 1520.<sup>2</sup> The statute, 19 U.S.C.A., section 1520(c)(1), contemplates a formal request for reliquidation of an entry on the ground of clerical error, mistake of fact or other inadvertence not amounting to an error in the construction of a law, followed by a refusal on the part of the district director to accede to such request. See *J. S. Sareussen Marine Supplies, Inc. v. United States*, 62 Cust. Ct. 449, 451, C.D. 3799, 304 F. Supp. 1185, 1186 (1969).

The so-called Customs Service ruling of December 26, 1973, does not qualify as a basis for a section 1520 claim in favor of plaintiff. The document in question does not come within the parameters of paragraph 12 of the complaint inasmuch as it is a letter which responds to a letter of inquiry dated June 19, 1973, which, of course, is prior to the liquidations of June 29, 1973. Moreover, the Customs Service letter of December 26, 1973, is not a ruling, and is not connected to any entry of merchandise. The letter merely purports to answer a customs broker's letter of inquiry regarding the tariff status of a wide-angle flip-on plastic visor for a snowmobile helmet.

Under the circumstances revealed in the record the court agrees with defendant that the only effective protest taken against the involved entries is the 427 protest. And it was never amended as authorized by section 1514(b)(1) to include any subsequently accruing section 1520 claim. The 043 protest is clearly a nullity, and as such, the instant action cannot be maintained inasmuch as it is not supported by any valid protest conferring jurisdiction of the subject matter upon the court.

Defendant's motion to dismiss is granted, and the action is dismissed. An order will be entered herein accordingly.

<sup>2</sup> The 427 protest constitutes at best a notice to the Customs Service of error in the construction of a law, and as such, is wholly outside of the purview of section 1520. See *Fibrous Glass Products, Inc. v. United States*, 63 Cust. Ct. 62, C.D. 3874 (1969), appeal dismissed, 57 CCPA 141 (1970).

# Decisions of the United States Customs Court

## *Customs Rules Decisions*

(C.R.D. 77-4)

POINT FOUR LTD., INC. *v.* UNITED STATES

*Leather sport shoes*

### MOTION TO DISMISS—PLEADING JURISDICTIONAL DEFECT IN ANSWER

Motion by government to dismiss action on jurisdictional grounds will be denied without prejudice to asserting the jurisdictional defense in its answer as the court would be ill advised to decline jurisdiction in the case if the allegations in the complaint relating to alleged deceptive and improper practices of customs officials in misdirecting and delaying the filing of the importer's protests can be given full credence.

Court No. 76-9-01963

Port of Cleveland (Toledo)

[Motion denied.]

(Dated May 12, 1977)

*Paul A. Tscholl* for the plaintiff.

*Barbara Allen Babcock*, Assistant Attorney General (*Steven P. Florsheim*, trial attorney), for the defendant.

RICHARDSON, Judge: In this action embracing importations of athletic footwear from Taiwan defendant moves pursuant to Rule 4.7(b) for an order dismissing the action for lack of jurisdiction. Defendant contends that the entries were liquidated on December 5, 1975, that the two protests involved herein were filed against these liquidations on March 16, 1976, or 102 days after the liquidations, and that the protests are untimely because not filed within 90 days of liquidation as required by 19 U.S.C.A., section 1514, as amended.



Plaintiff-importer opposes the motion, contending that, acting without counsel, it was advised by customs personnel at the port of entry (Toledo, Ohio) that it should file its protests at Chicago, Illinois (regional commissioner's office), that it seasonably mailed the protests to Chicago as advised, and that the Chicago office sat on the protests until the protest time limitation expired, and then forwarded them to the district director at the headquarters port (Cleveland, Ohio) where they were received and filed as of March 16, 1977. Plaintiff argues that defendant should not be allowed to benefit from its erroneous advice to plaintiff followed by its deliberate and wilful delay in transmission of the protests to the Cleveland district director.

In the present posture of the action plaintiff has filed a complaint in which it is averred, among other things:

3. Protest was mailed, upon advice of the Toledo office, to U.S. Customs Service, Chicago, Illinois, February 27, 1976. They forwarded it to Cleveland, Ohio office where it was stamped March 15, 1976 and dated filed as March 16, 1976.

No answer to the complaint has been interposed inasmuch as defendant obtained an order of the court on January 5, 1977, on *consent* for an extension of 60 days for the reason "that additional time is required to investigate the factual allegations set forth in the complaint, so that said allegations may be accurately and appropriately answered."

Section 1514(b)(1)(2), as amended, requires, among other things, that a protest be filed with the *appropriate customs officer* designated in regulations prescribed by the Secretary [of the Treasury] within 90 days after *notice*<sup>1</sup> of liquidation. And, according to section 174.12(d) of the customs regulations, the appropriate customs officer for the filing of the protests in this case would be either the district director at Cleveland or the port director at Toledo where the involved entries were made.

Although customs officials are not required to advise importers as to the nature and extent of their rights, see *Flagstaff Liquor Company v. United States*, 73 Cust. Ct. 132, 137, C.D. 4563, 388 F. Supp. 554 (1974), and cases cited on page 138, nevertheless, the rights of importers will not be forfeited as a consequence of deceptive or improper practices indulged in by customs officials. See *A. H. Burr v. United States*, 9 Cust. Ct. 13, 19-20, C.D. 651 (1942) [improper delay by customs officials in time-stamping the importer's entry papers until after the closing of a cattle quota]; *Henry A. Wess, Inc. v.*

<sup>1</sup> It is to be noted that the moving papers do not address themselves to Notice of Liquidation, but only to the liquidation *per se*. However, the statute runs from the date of Notice of Liquidation, and not from the date of liquidation, if liquidation occurs on a different date.

*United States*, 25 Cust. Ct. 34, 37, C.D. 1259 (1950) [examination of merchandise by the wrong customs official acting under color of authority]; and *Snake King v. United States*, 18 Cust. Ct. 33, 35, C.D. 1041 (1947) [acceptance of protest by deputy collector after the regulation closing hour on the 60th day after liquidation]. If full credence be given to the allegations in the third paragraph of the complaint in this case it is clear that the ends of justice as well as the objective of the statute of limitations will be ill served by a declination of jurisdiction on the part of the court. But at this point in the proceedings a judgment in the matter either way is premature, there being no evidentiary record before the court in connection with this motion.

However, inasmuch as defendant has procured a postponement in the joinder of issue under a commitment to *answer the complaint*, it is appropriate that it be required to do so. Accordingly, defendant's motion to dismiss is denied, without prejudice, however, to raising the jurisdictional issue herein by way of its answer.

# Decisions of the United States Customs Court *Abstracts* *Abstracted Protest Decisions*

DEPARTMENT OF THE TREASURY, May 16, 1977.

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

G. R. DICKERSON,  
*Acting Commissioner of Customs.*

CUSTOMS COURT

33

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Per. of Item No. and Rate	Per. of Item No. and Rate			
P77/61	Be, C. J. May 10, 1977	Newton Lumber Corp.	69/43090, etc.	Item 727.40 13.5%	Item 202.53 3%		Pacific Hardwood Sales Co. et al. v. U.S. (C.D. 3860)	New York Pieces of hardwood
P77/62	Ford, J. May 10, 1977	Morris Friedman & Co. et al.	57/79134, etc.	Item 653.40 19%	Item 653.35 10.5%		U.S. v. Morris Friedman & Co. (C.A.D. 1157)	Philadelphia Candlesticks, candlehold- ers, etc.

## CUSTOMS COURT

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD		BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate		
P77/63	Ford, J. May 10, 1977	Morris Friedman & Co. et al.	71-12-02063, etc.	Item 653.37 17%, 13%, 11% or 9.5%	Item 653.35 9%, 7%, 6% or 5%			Morris Friedman & Co. v. U.S. (C.D. 4561, aff'd C.A.D. 1156; C.D. 4570, aff'd C.A.D. 1157)	Philadelphia Candlesticks, candlehold- ers, etc.
P77/64	Ford, J. May 10, 1977	Morris Friedman & Co.	72-4-00749, etc.	Item 653.37 13% or 11%	Item 653.35 7% or 6%			Morris Friedman & Co. v. U.S. (C.D. 4561, aff'd C.A.D. 1156; C.D. 4570, aff'd C.A.D. 1157)	Philadelphia Candlesticks, candlehold- ers, etc.
P77/65	Ford, J. May 10, 1977	F. B. Vandegrift & Co., Inc.	68/35763, etc.	653.37 17%, 16% or 13%	653.35 9%, 8% or 7%			U.S. v. Morris Friedman & Co. (C.A.D. 1157)	Philadelphia Candlesticks, candlehold- ers, etc.
P77/66	Re, C. J. May 11, 1977	Importers Associates, Inc.	73-8-02442	Item 705.85 15%	Item 735.05 9% and 7.5% (Nos. 815, 715)			Agreed statement of facts	New York Snowmobile gloves; ski gloves

P77/67	Ford, J. May 11, 1977	The American Import Co.	68/53731	Item 653.37 17%	Item 734.97 14.5% (Nos. 809, 769 and 660)	and 615) Item 653.35 9%	U.S. v. Morris Friedman & Co. (C.A.D.'s 1156, 1157)	Philadelphia Candlesticks, candleholders, etc.
P77/68	Ford, J. May 11, 1977	Morris Friedman & Co.	71-7-00408	Item 653.37 13% or 11%	Item 653.35 7% or 0%	Item 653.35 7% or 0%	Morris Friedman & Co. v. U.S. (C.D. 4501, aff'd C.A.D. 1156; C.D. 4570, aff'd C.A.D. 1157)	Philadelphia Candlesticks, candleholders, etc.
P77/69	Ford, J. May 11, 1977	Gimbel Bros., Inc.	71-10-01438, etc.	Item 653.37 15%, 13%, 11% or 9.5%	Item 653.35 8%, 7%, 0% or 5%	Item 653.35 8%, 7%, 0% or 5%	U.S. v. Morris Friedman & Co. (C.A.D. 1157)	New York Candlesticks, candleholders, etc.
P77/70	Watson, J. May 11, 1977	The Newman Importing Company et al.	72-2-00362, etc.	Item 384.60 25¢ per lb. + 27%, 24% 21% or 13%	Item 735.20 18%, 10%, 14% or 12%	Item 735.20 18%, 10%, 14% or 12%	The Newman Importing Co., Inc. v. U.S. (C.D. 4648)	Los Angeles Backpacking tents

# Decisions of the United States Customs Court

## Abstracts

### Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R77/31	Re, C. J. May 12, 1977	The Beton Co. et al.	288028-A, etc.	Export value	Net appraised value less 7¼%, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	San Francisco Japanese plywood
R77/32	Re, C. J. May 12, 1977	The Beton Co. et al.	R61/14844, etc.	Export value	Net appraised value less 7¼%, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	San Francisco Japanese plywood
R77/33	Re, C. J. May 12, 1977	Castelazo & Assoc- ates et al.	R58/1277, etc.	Export value	Net appraised value less 7¼%, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Los Angeles Japanese plywood
R77/34	Re, C. J. May 12, 1977	Dant & Russell, Inc., et al.	R60/10004, etc.	Export value	Net appraised value less 7¼%, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Houston Japanese plywood
R77/35	Re, C. J. May 12, 1977	Del Valle Kahman & Co. et al.	R58/19723, etc.	Export value	Net appraised value less 7¼%, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Longview (Portland, Oreg.) Japanese plywood
R77/36	Re, C. J. May 12, 1977	Pan Pacific Overseas Corp.	R60/2671	Export value	Net appraised value less 7¼%, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Longview (Portland, Oreg.) Japanese plywood

Rehearing Motion Filed

MAY 12, 1977

McDonnell Douglas Corp. v. United States, Court No. 72-6-01395.—  
DC-9 AIRPLANE.—C.D. 4692. MOTION BY PLAINTIFF.

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Decision on Petition for Rehearing Before the  
United States Court of Customs and  
Patent Appeals

MAY 5, 1977

APPEAL 76-17.—United States v. Ataka America, Inc.—FIBER-  
SCOPE—MEDICAL-OPTICAL INSTRUMENT—ELECTRO-MEDICAL AP-  
PARATUS—TSUS.—C.D. 4637 reversed March 10, 1977. C.A.D.  
1184. Petition for rehearing filed by appellee on March 25, 1977  
denied.

# Index

## U.S. Customs Service

<b>Bonds:</b>	<b>T.D. No.</b>
Common carrier; CF 3587.....	77-143
Control of instruments of international traffic; CF 7587.....	77-142
Cotton textiles; restriction on entry; Polish People's Republic.....	77-141
<b>Drawback decisions:</b>	
Phendimetrazine tartrate.....	77-146-A
Plastic trays, cartridges, etc.....	77-146-B
Diesel electric generator sets.....	77-146-C
Finished printed plywood panels.....	77-146-D
Talusia 40, 70, 70 GR, 100 GR; Atlanta Marine 30, 30 D; Disola M 30, M, and M 40.....	77-146-E
Comforters and pillows.....	77-146-F
Air-cooled diesel engines.....	77-146-G
Diskette drives.....	77-146-H
Leaf and scrap tobaccos.....	77-146-I
Swimming pool structural parts.....	77-146-J
Light towers, diesel generating plants, and irrigation pumps.....	77-146-K
Sugar twin.....	77-146-L
Automobile air conditioners.....	77-146-M
Nequinate cabosil blend.....	77-146-N
Pressure vessel jacketed reactors.....	77-146-O
Finished ball bearings.....	77-146-P
Commercial laundry extractors (washing machines).....	77-146-Q
Pettibone multikrane (various models).....	77-146-R
Picture hanger sets; screws; and wire.....	77-146-S
Microphotographic products.....	77-146-T
Vitamin products.....	77-146-U
Snowmobiles.....	77-146-V
Marine lubricating oils.....	77-146-W
Automatic windshield wiper systems.....	77-146-X
Drilling bits and drill tool products.....	77-146-Y
Stainless welding wire.....	77-146-Z
<b>Foreign currencies:</b>	
Daily rates for Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical); May 9-13, 1977.....	77-145
Rates which varied from the quarterly in T.D. 77-106; May 9- 13, 1977.....	77-144
Manmade fiber textile products; restriction on entry; Mexico.....	77-140
Notice; no decision will appear as T.D. 77-139.	



## Customs Court

## Construction:

Customs Regulations, sec. 174.12(d), C.R.D. 77-4

Rules of the U.S. Customs Court:

Rule 4.7, C.D. 4696

Rule 4.7(b), C.R.D. 77-4

Tariff Schedules of the United States:

Item 632.43, C.D. 4695

Item 658.00, C.D. 4695

Item 807.00, C.D. 4695

Schedule 6:

Part 2, subpart K, headnote 3(a), C.D. 4695

Part 3, subpart G, headnote 1, C.D. 4695

U.S. Code Annotated:

Title 19:

Sec. 1514(b)(1), C.D. 4696

Sec. 1514(b)(1)(2), C.R.D. 77-4

Sec. 1520(c)(1), C.D. 4696

Title 28: sec. 2631(a), C.D. 4696

Customs officials; alleged misdirecting and delaying filing of protests; timeliness, C.R.D. 77-4

Dismiss action, motion to, C.R.D. 77-4, C.D. 4696

Hyperpure monocrystalline silicon:

Ingots; hyperpure monocrystalline silicon rods, C.D. 4696

Rods; hyperpure monocrystalline silicon ingots, C.D. 4695

Jurisdiction, lack of; motion to dismiss for, C.D. 4696, C.R.D. 77-4

Lack of jurisdiction, motion to dismiss for, C.D. 4696, C.R.D. 77-4

Leather sport shoes (*see* Motion to dismiss action), C.R.D. 77-4

Limitation on protest filings; motion to dismiss action, C.D. 4696

Monocrystalline silicon:

Ingots, C.D. 4695

Rods, C.D. 4695

Motion to dismiss:

Action:

Limitation on protest filings, C.D. 4696

Pleading jurisdictional defect in answer, C.R.D. 77-4

For lack of jurisdiction, C.D. 4696, C.R.D. 77-4

Plastic visors (*see* Motion to dismiss action), C.D. 4696

Pleading jurisdictional defect in answer; motion to dismiss action, C.R.D. 77-4

Protest filings, limitation on, C.D. 4696

Rehearings:

U.S. Court of Customs and Patent Appeals (p. 37): denied:

Appeal 76-17—fiberscope; medical optical instruments; electro-medical apparatus; TSUS. C.D. 4637 reversed March 10, 1977.

U.S. Customs Court (p. 37): applied for, DC-9 Airplane, C.D. 4692

Timeliness; customs officials; alleged misdirecting and delaying filing of protests,  
C.R.D. 77-4

Unwrought silicon; monocrystalline silicon ingots, C.D. 4695

Words and phrases; unwrought, C.D. 4695



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